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DESIGNATION HANDBOOK

APR 12 1979
UNIVERSITY OF TORONTO



A guide to procedures under Part IV
of The Ontario Heritage Act, 1974

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Introduction

Use of this Handbook

This Handbook is designed to assist municipalities in carrying out programmes of heritage conservation under Part IV of The Ontario Heritage Act, 1974. That Part gives municipalities a number of mechanisms for protecting properties of architectural and/or historical value or interest. This booklet describes these mechanisms and traces the procedures to be followed in utilizing them.

Part V of The Act, which deals with Heritage Conservation Districts, is not discussed here.

THIS HANDBOOK IS NOT INTENDED AS A SUBSTITUTE FOR THE ONTARIO HERITAGE ACT, 1974, BUT SHOULD BE USED IN CONJUNCTION WITH THE ACT.

Sample Documents

A number of sections of Part IV require documents such as by-laws and notices to be produced. This Handbook contains, in appendices to the chapters, samples which may serve as guides for municipalities in drafting their own. It is NOT mandatory that these forms be followed. REGULATIONS TO THE ONTARIO HERITAGE ACT, 1974 DO NOT REQUIRE THE USE OF SPECIFIC FORMS. MUNICIPALITIES ARE FREE TO DRAFT ALL DOCUMENTS IN ANY FORM THEY WISH.

Flow Diagrams

This Handbook includes a number of flow diagrams. These are intended to give an overview of procedures and show the inter-relation of the various mechanisms provided for by Part IV of The Act. The chart at the end of this Introduction shows the basic process of designation of a property of architectural and/or historical value or interest. Those at the beginnings of the chapters elaborate on this basic procedure. Each shows in detail the procedures described in that chapter and their relation to the designation process. At the end of the Handbook are two diagrams which show, between them, all of the procedures discussed in this Handbook. The first summarizes the sections of The Act relating to the designation and repeal of designation of a property. The second shows the procedures involved in alteration of a designated property and demolition or removal of a building or structure which forms part of a designated property.

Basic Functions

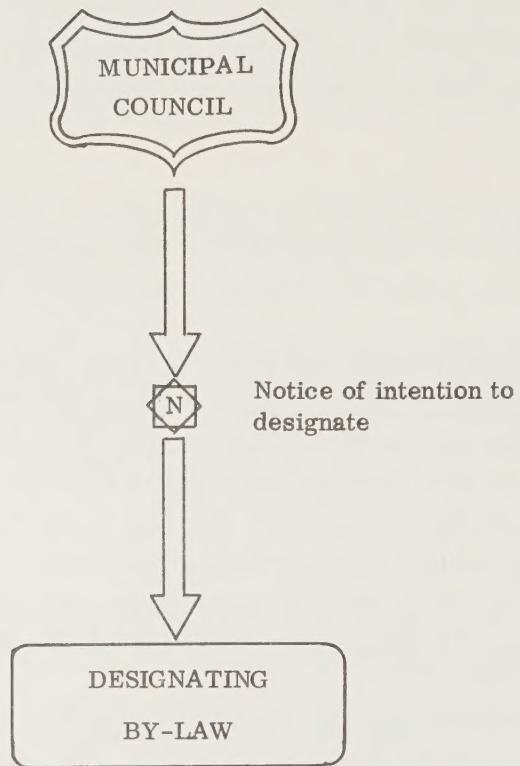
A reading of The Act shows three basic functions which must be performed in the implementation of any heritage conservation programme: the policy making and legislative function, the advisory function and the administrative function.

The municipal council performs the first of these functions. It has the authority under The Act to initiate a heritage conservation programme, decide its basic policies and pass legislation to implement it.

The Act provides for two advisory bodies. The first is a local advisory committee which the council may set up under section 28 of The Act. The committee is known as the Local Architectural Conservation Advisory Committee (LACAC) and its function is to advise and assist the council on all heritage conservation matters. The second advisory body is the Conservation Review Board, which is a provincial tribunal established by Part III of The Ontario Heritage Act, 1974 to conduct hearings concerning the actions or proposed actions of municipal councils under The Act.

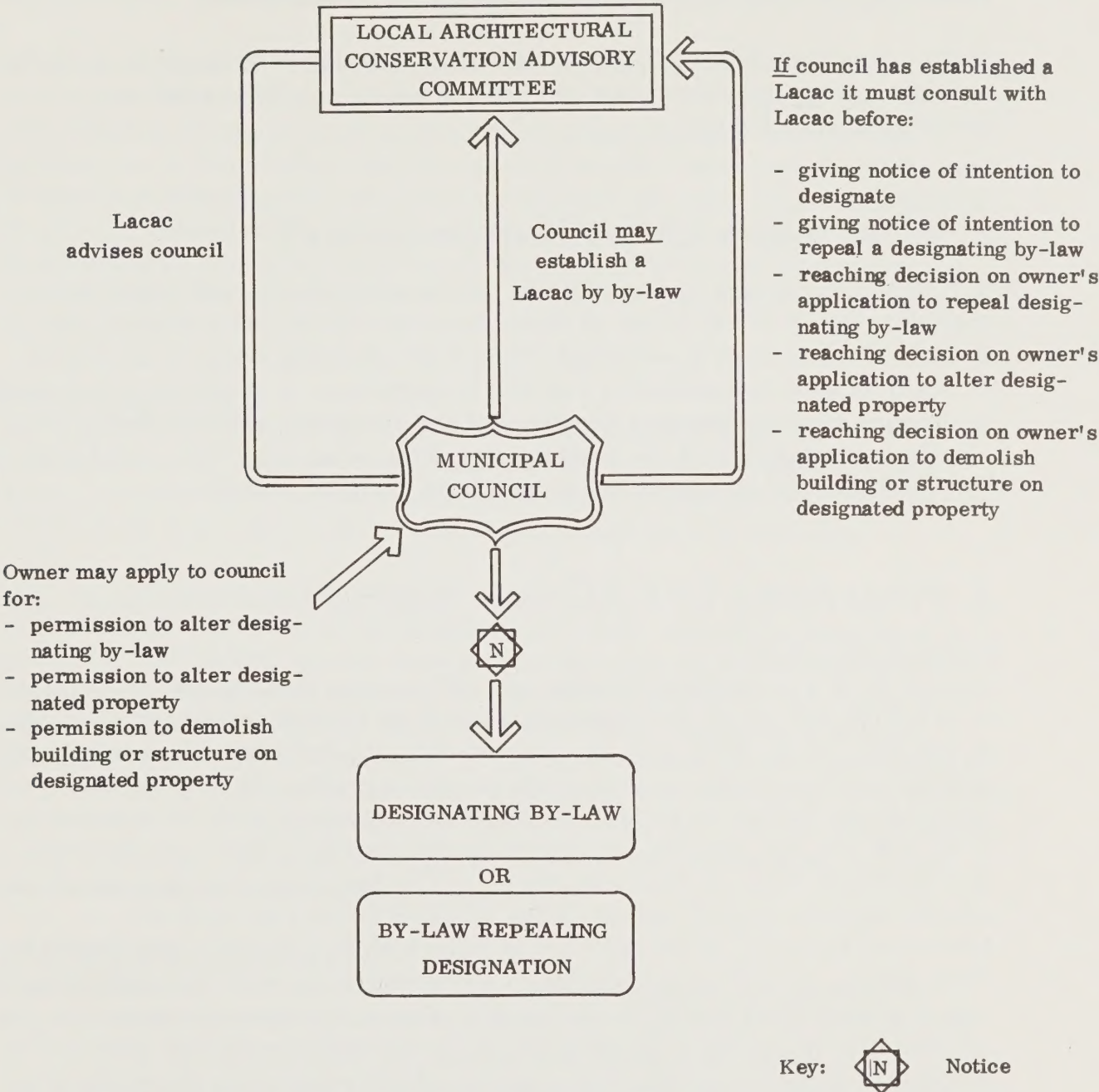
The administrative function entails the performance of procedural duties specified by The Act, including service and publication of notices and registration of documents. This function is performed by municipal officials.

These three functions are indicated throughout this Handbook. To a certain extent they are discussed separately: Chapters 1 (LACAC) and 5 (Conservation Review Board) deal with the advisory bodies, Chapters 2 (Notice) and 4 (Registration) deal with administrative matters and Chapters 3 (Designating By-Law), 6 (Effects of Designation) and 7 (Other Conservation Methods) discuss in general the legislative and policy making function of the council. However, the roles of the three participants in the process cannot be separated entirely. Any action taken under The Act will involve all three functions, and it is essential that the people involved in each of them understand not only their own role but also their place in the whole process. Each of the chapters of this Handbook has been written to show this interaction.



Key:  Notice

Chapter 1: Local Architectural Conservation Advisory Committee



1. What is a Local Architectural Conservation Advisory Committee?

A Local Architectural Conservation Advisory Committee (LACAC) is a committee of five or more people which may be set up by a municipal council under section 28 of The Ontario Heritage Act, 1974. The function of the committee is to advise the council on local heritage matters and to assist the council in carrying out its heritage conservation programme.

If the council so chooses it may empower an existing body (such as an active heritage group) to perform the functions of a LACAC. This must be accomplished by by-law.

2. When may a LACAC be established?

A LACAC may be set up at any time. There is no need to wait until the council is ready to carry out an active heritage conservation programme. In fact, if the council is contemplating a heritage programme in the future, it would be wise to establish a LACAC immediately, in order to give it time to prepare a comprehensive inventory of the architecturally and historically significant properties in the municipality. This research takes a good deal of time and the LACAC should begin upon it as early as possible.

3. What does a LACAC do?

STATUTORY DUTY

Section 28 of The Ontario Heritage Act, 1974 states that the duty of a LACAC is to advise and assist the municipal council on all matters relating to Part IV of The Act, which deals with the conservation of properties of architectural and/or historical value or interest in the municipality. (Section 28 also requires the LACAC to advise and assist the council on matters relating to Part V of The Act, dealing with Heritage Conservation Districts. However, this Handbook does not deal with Part V.) The Act states that the council must consult with the LACAC before giving NOTICE OF INTENTION TO DESIGNATE (s. 29) or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW (s. 31) and before coming to a decision on an owner's application to repeal a DESIGNATING BY-LAW (s. 32), alter a designated property (s. 33) or demolish or remove a building or structure which forms part of a designated property (s. 34). The council is NOT required to follow the recommendations of the LACAC. The committee's function is advisory only.

RESEARCH

The LACAC should begin immediately upon being established to do research into the architectural and historical heritage of the community. Priorities in this research must, of course, depend upon the wishes of the council and the

circumstances of the community. There may be properties that require immediate attention because they are of particular importance or because they are in danger. But the research should be a continuing process, and the LACAC should try, over time, to develop a comprehensive inventory of the heritage properties of the community. This should be kept up to date and should be conveniently available to the council. Each property studied by the LACAC should have a separate file, and files on properties that have been designated or considered for designation should be specially marked.

The LACAC should work closely with the Building Department. The mechanism of building and demolition permits under The Ontario Building Code Act, S.O. 1974 Chapter 74 can be used to monitor proposed changes to important properties. A list of all properties in the LACAC's inventory should be sent to the Chief Building Official. When he receives an application for a permit to alter or demolish any of these properties he should notify the LACAC. The local advisory committee may then bring the matter to the attention of the council and make recommendations as to whether the property should be designated.

PUBLIC SUPPORT

An important function of the local advisory committee is to inform the community about heritage conservation matters. It may organize exhibits or tours, arrange for newspaper articles and publish pamphlets or newsletters. The LACAC may, if it wishes, solicit volunteers to help with this.

INITIAL CONTACT WITH OWNERS

Before a municipal council takes any formal steps toward designation of a property, the LACAC should meet informally with the property owner to explain what designation involves. In the short time the Ontario Heritage Act, 1974 has been in force, there have been many instances of owners objecting to designation because of a misunderstanding of the restrictions it imposes. Many of these owners have withdrawn their objections upon learning the true nature of designation. The LACAC should try to avoid such problems in the future by explaining about the procedures and restrictions involved before the formal designation process begins.

REASONS FOR DESIGNATION

The LACAC may be made partly or entirely responsible for drafting the reasons for designation of a property which are included in the NOTICE OF INTENTION TO DESIGNATE (s. 29) and the reasons for repeal in the NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW (s. 31)(see Chapter 2: Notice). In many communities in which LACACs have been established the LACAC has been entirely responsible for drafting these reasons. If the clerk or municipal solicitor composes the reasons the LACAC should be consulted regarding the wording and should be satisfied that the reasons are correct and complete. If the council decides to proceed with the designation or repeal of designation after giving notice, a more detailed statement of the reasons should be prepared. This statement will be

registered together with the DESIGNATING BY-LAW or BY-LAW REPEALING DESIGNATING BY-LAW in the proper land registry office.

4. Who should be on the LACAC?

The Ontario Heritage Act, 1974 does not specify any particular qualifications for LACAC members. Each council is free to choose those people who, in its opinion, are best qualified. A list of possible members is included in the Appendix to this Chapter. This list is based on the experience of established LACACs. It is only a suggestion, however, and each community must decide who will best serve its heritage needs, taking into account their qualifications, knowledge of the community and enthusiasm.

The Act sets a minimum of five members for the LACAC but there is no maximum. Most communities which have LACACs have found a membership of eight to twelve to be ideal, but again each council must decide what is best for its community.

Most LACACs have found that a municipal council member is an invaluable member of the local advisory committee. This person can bring the committee's work to the attention of the council, introduce by-laws at the appropriate time and inform the committee of the council's expectations and requirements.

5. Relevant sections of The Ontario Heritage Act, 1974

ESTABLISHMENT OF A LACAC

s. 28

FUNCTIONS OF A LACAC

General

s. 28

Consultation by council

s. 29(2): DESIGNATING BY-LAW

s. 31(2): BY-LAW REPEALING DESIGNATING BY-LAW

s. 32(2): Owner's application to repeal DESIGNATING BY-LAW

s. 33(4): Owner's application for permission to alter designated property

s. 34(2): Owner's application for permission to demolish or remove building or structure which forms part of a designated property

Appendix: Sample by-law establishing a LACAC

CORPORATION OF THE (City, Town, etc.)¹
OF _____

BY-LAW NUMBER _____

A BY-LAW TO ESTABLISH A LOCAL ARCHITECTURAL
CONSERVATION ADVISORY COMMITTEE AND PROVIDE
FOR THE APPOINTMENT OF MEMBERS THERETO

WHEREAS section 28 of The Ontario Heritage Act, 1974 provides that the council of a municipality may, by by-law, establish a local advisory committee to be known as the Local Architectural Conservation Advisory Committee (LACAC) to advise and assist the council on all matters relating to Parts IV and V of The Ontario Heritage Act, 1974; and

WHEREAS the Council² of the (City, Town, etc.)³ of _____ deems it advisable to establish such a committee and provide for the appointment of members thereto;

THEREFORE the Council of the Corporation of the (City, Town, etc.) of _____ enacts as follows:

1) A local advisory committee to be known as the Local Architectural Conservation Advisory Committee⁴ is hereby established.

2) The local advisory committee shall consist of a minimum of five members⁵. Members shall be appointed by Council.

Cont'd...

NOTES TO SAMPLE BY-LAW

1. The proper corporate name of the municipality should be used.
2. The identity of the enacting authority should be stated. Since section 28 of The Ontario Heritage Act, 1974 empowers the council to establish a LACAC, it should be stated that it is the council that is doing so.
3. It is essential to use the proper corporate name here.
4. The Ontario Heritage Act, 1974 requires that the committee be known by this name. This should be stated in the by-law.
5. The Ontario Heritage Act, 1974 requires a minimum membership of five. There is no maximum limit. Each community must decide for itself what size of committee will be best, considering efficiency, the number of qualified people and the amount of work to be done.

(Sample by-law cont'd)

3) The following members are hereby appointed for the terms indicated:⁶

7

4) The Council of the Corporation of the (City, Town, etc.) of _____ may, by resolution, replace members as terms of membership expire, or appoint from time to time such new members as it deems desirable.⁸

Cont'd...

6. The initial terms of appointment may be of differing lengths. In this way, if subsequent terms of membership are of equal durations, the terms of membership will be staggered. If, for example, the initial appointments are made in two groups, one of one year's duration and the other of two year's duration, and all subsequent appointments are for two year terms, there will always be a one year overlap of membership. This will provide continuity in the LACAC's work from year to year.
7. The following is a suggested list of LACAC members:
 - Members of the municipal council
 - Architects
 - Historical geographers
 - Architectural and art historians
 - Planners
 - Structural engineers
 - Members of the local Historical Society
 - Businessmen
 - Representatives of neighbourhood groups or people who are familiar with the history of the community

This list is meant as a suggestion only. The experience of established LACACs indicates that all of these people may be valuable. However, each council must decide what membership will best serve its needs.

The most important qualification for LACAC members is interest in heritage conservation.

The council may find it useful to make the clerk and municipal solicitor ex officio members of the committee.

8. The Ontario Heritage Act, 1974 does not specify a particular method of appointment of LACAC members. It appears from judicial decisions that in such cases the appointment may be made by resolution. Consultation with the municipal solicitor on this point would be wise.

(Sample by-law cont'd)

5) The Council shall appoint a chairman of the local advisory committee.

(ALTERNATIVE PARAGRAPH)

5) The local advisory committee shall, at its first meeting of each year, elect a Chairman from its membership.

6) The terms of reference of the local advisory committee shall be as follows:⁹

a) To establish criteria for the evaluation of properties of architectural and/or historical value or interest;

b) To prepare and maintain a list of properties and areas worthy of conservation;

c) To advise Council on means of conserving heritage properties and areas;

d) To advise Council on current heritage conservation legislation and to assist Council in the preparation of municipal legislation to conserve heritage properties and areas;

e) To implement programmes and activities to increase public awareness and knowledge of heritage conservation issues;

f) To advise and assist Council on all matters relating to Parts IV and V of The Ontario Heritage Act, 1974;

g) To advise and assist Council on any other matters relating to buildings and areas of architectural and/or historical significance;

h) To administer properties acquired by the municipality under section 36 of The Ontario Heritage Act, 1974;

i) To prepare, before the ____ day of _____ each year, a report of the previous year's activities, a report of the previous year's expenditures and a projected budget for the succeeding year;

j) The local advisory committee shall meet as often as it deems necessary, but at least once each four months.

7) This by-law shall come into force and take effect on the date of its passing (OR ALTERNATIVELY: on the ____ day of _____, 19__).

Dates of three readings:

(Signature of head of Council)

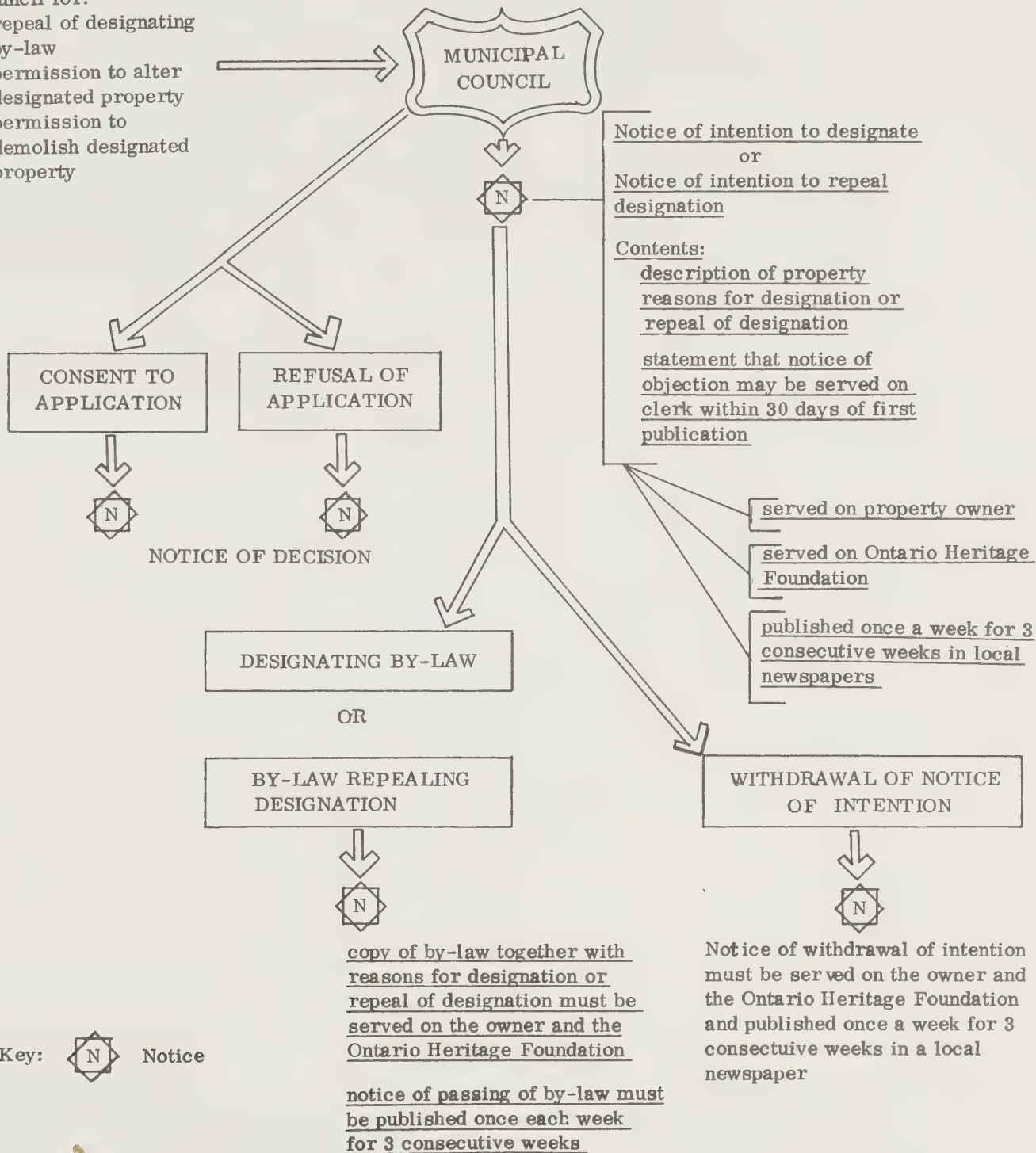
(Signature of Clerk)

9. These terms of reference may be expanded or shortened as the council wishes.

Chapter 2: Notice

Owner may apply to Council for:

- repeal of designating by-law
- permission to alter designated property
- permission to demolish designated property



1. Introduction

The Ontario Heritage Act, 1974 contains detailed provisions relating to notification of the actions and proposed actions of municipal councils. The Act specifies the circumstances in which notice must be given, the parties who must receive it, the manner of notification and the contents of notices. It is essential that these requirements be met precisely.

This Chapter explains in detail the contents of the required notices and the manner in which they must be given. It should be used as a reference, in conjunction with The Act and with Chapters 4 (The Designating By-Law) and 7 (Effects of Designation), which show the place of notice requirements in the procedural pathways which must be followed in carrying out various actions under The Act.

Sample notices are included in the Appendices to this Chapter. As was stated in the Introduction, these samples are NOT forms required by the Regulations or The Act. They are intended simply as guides.

Section 6 of this Chapter deals with informal notices that may be sent by a local advisory committee to the owner of a property that a council intends to designate. This is not required by The Ontario Heritage Act, 1974. It is a suggestion based on the experience of communities that have gone through the designation process a number of times.

2. Relevant sections of The Ontario Heritage Act, 1974

The sections of The Ontario Heritage Act, 1974 dealing with notice are listed here for convenient reference.

DESIGNATION:

- 29(1): Requirement for NOTICE OF INTENTION TO DESIGNATE
- (3): Service and publication of NOTICE OF INTENTION TO DESIGNATE
- (4): Contents of NOTICE OF INTENTION TO DESIGNATE
- (6)(a): Notification of passage of DESIGNATING BY-LAW
- (6)(b): Notification of withdrawal of NOTICE OF INTENTION TO DESIGNATE
- (14)(a): Notification of passage of DESIGNATING BY-LAW after Conservation Review Board hearing
- (14)(b): Notification of withdrawal of NOTICE OF INTENTION TO DESIGNATE after Conservation Review Board hearing

REPEAL OF DESIGNATION

- 31(1): Requirement for NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW

-
- 31(3): Service and publication of NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
 - (4): Contents of NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
 - (6): Notification of passage of BY-LAW REPEALING DESIGNATING BY-LAW and notification of withdrawal of NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW

APPLICATION BY OWNER FOR REPEAL OF DESIGNATING BY-LAW

- 32(2)(a): Notification of the council's refusal of the application
- (b): Notification of passage of BY-LAW REPEALING DESIGNATING BY-LAW
- (11)(a): Notification of the council's refusal of the application after a Conservation Review Board hearing
- (b): Notification of passage of BY-LAW REPEALING DESIGNATING BY-LAW after a Conservation Review Board hearing

APPLICATION BY OWNER FOR PERMISSION TO ALTER DESIGNATED PROPERTY

- 33(3): NOTICE OF RECEIPT OF OWNER'S APPLICATION
- (4): Notice of the council's decision on the application
- (7): Notice of Conservation Review Board hearing
- (13): Notice of the council's decision on the application after a Conservation Review Board hearing

APPLICATION BY OWNER FOR PERMISSION TO DEMOLISH OR REMOVE

- 34(2): Notice of the council's decision on the application
- (5): Notification of passage of BY-LAW REPEALING DESIGNATING BY-LAW

3. Method of notification

SERVICE: Subsections 67(1) and 67(2) read as follows:

- 67(1): Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last known address .
- (2): Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness, or other cause beyond his control, receive the notice or order until a later date.

PUBLICATION: NEWSPAPER NOTICES: Subsection 67(3) states:

67(3): "Any notice required to be published in a newspaper having general circulation in the municipality in which a property is situate shall be published in that newspaper once for each of three consecutive weeks."

4. Reasons for Designation

Reasons for designation are required under a number of sections of The Ontario Heritage Act, 1974. Sections 29 and 31 respectively, require reasons to be included in the NOTICE OF INTENTION TO DESIGNATE and the NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW (both in the notice served on the owner and the Ontario Heritage Foundation and in the published notice). When a DESIGNATING BY-LAW has been passed a copy of the by-law together with the reasons for designation must be registered against the property affected in the proper land registry office ss. 29(6) and 29(14). Section 27 requires that in each municipality in which properties have been designated a Register of Designated Properties must be kept. The Register must include a "short statement of the reason for designation" of each designated property.

The reasons for designation serve two purposes. Firstly, they inform the public as to the council's views of the significance of the properties. Any person (including the owner) who questions a proposed designation or repeal of designation will look to the reasons stated in the NOTICE OF INTENTION as the basis of his decision whether or not to object. Should he decide to do so the reasons should tell him the essentials of the case he must meet in his objection. Similarly, an owner applying for the repeal of a DESIGNATING BY-LAW will base his case on the reasons for designation registered together with the by-law in the land registry office.

The second function of the reasons for designation is to provide guidance for future planning. Subsection 33(1) states: "No owner of property designated under Part IV shall alter the property or permit the alteration of the property where the alteration is likely to affect the reason for designation as set out in subsection 6 or 14 of section 29, as the case may be, unless he applies to the council and receives consent in writing to make such alteration." The owner should be able to see clearly from the stated reasons whether his proposed alteration will affect an aspect of the property which the council wishes to protect. Also, the reasons should provide a solid basis of information regarding the importance of the property so that future councils will be able to make well informed decisions on applications to alter designated properties or demolish or remove structures which form part of those properties.

The reasons should be written with these two purposes in mind. They must include the essential features of a property which make it worth conserving. The reasons should not describe all aspects of the property down to its last

detail, but should be restricted to its heritage aspects. On the other hand, the reasons should be thorough in describing the property's heritage qualities. Any person reading them should be able to see all the architectural and historical qualities which the council wishes to protect. If the subject of the designation is a building, mention should be made of its stylistic elements, its dates, special importance to the community, whether it was designed by a well known architect or builder, its setting and context and any important architectural details. If buildings of its type are scarce, this should be mentioned. If the council wants to protect landscape elements or items such as lawn furniture (fences for example) or street furniture these should be listed. If the property is being designated on the basis of its historical associations this should be made clear and all relevant facts given. As was stated in Chapter 2, it is up to each council and its LACAC to decide upon their own criteria in evaluating the importance of a property, so the emphasis placed on each of the categories mentioned will vary between municipalities. In composing the reasons for designation the LACAC should work from the comprehensive stock of information it has compiled in its inventory. This should be condensed into a statement which is more concise but which conveys the essence of the historical and architectural importance of the property. A number of examples of suitable reasons for designation are included in Appendix D to this Chapter.

5. Group Notices

A NOTICE OF INTENTION may apply to more than one property. The general requirements for the contents of the notices are the same as those for notices for individual properties. Reasons for each proposed designation must be given for each property in a group notice. Examples are included in Appendices A and B to this Chapter.

6. Informal Notice of Intention

It is recommended that before the owner of a property that the council intends to designate is served with the formal NOTICE OF INTENTION, the LACAC should approach him or her informally to explain the obligations and restrictions imposed by designation. The formal NOTICE OF INTENTION required by The Act gives no such information. As a result, a number of owners have misunderstood the nature of designation and have objected, only to discover at the subsequent Conservation Review Board hearing that their fears were unfounded. Local advisory committees should try to avoid such misunderstandings in future by sending to each owner an informal letter stating what designation will mean to him or her and offering to meet with him or her to explain more fully. A sample letter is included in Appendix to this Chapter.

Appendix A: Sample Notices of Intention

1. NOTICE TO BE SERVED ON PROPERTY OWNER

IN THE MATTER OF THE ONTARIO HERITAGE ACT,
1974, S. O. Chapter 122

AND IN THE MATTER OF THE LANDS AND PREMISES
KNOWN MUNICIPALLY AS (Municipal Address)
IN THE _____ OF _____
IN THE PROVINCE OF ONTARIO

NOTICE OF INTENTION TO DESIGNATE¹

To: (Name and Address of Owner)

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ intends to designate² the
property, including lands and buildings, known municipally as
(Municipal Address) as a property of architectural and/or
historical value or interest under Part IV of The Ontario
Heritage Act, 1974, S. O. Chapter 122.

Reasons for the Proposed Designation³

See examples in Appendix D

Any person may, before the _____ day of _____, 19____⁴
send by registered mail or deliver to the Clerk of the
_____ of _____ notice of his or her objection to
the proposed designation, together with a statement of the
reasons for the objection and all relevant facts. When a Notice
of Objection has been received, the Council of the _____
of _____ will refer the matter to the Conservation
Review Board for a hearing and report.

Dated at _____
this _____ day of _____, 19____.

(Clerk)

NOTES:

1. Or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
2. Or ...repeal the by-law designating the property...
3. Or Reasons for the Proposed Repeal of Designating By-Law
4. The Act requires that notices of objection must be served on the clerk within thirty days of the first publication of the NOTICE OF INTENTION in a local newspaper. The date before which the notice of objection should be served on the clerk should be determined from this date.

2. NOTICE TO BE SERVED ON THE ONTARIO HERITAGE FOUNDATION
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE
ACT, 1974, S. O. CHAPTER 122

AND IN THE MATTER OF THE LANDS AND PREMISES
AT THE FOLLOWING MUNICIPAL ADDRESS(ES) IN
THE PROVINCE OF ONTARIO

NOTICE OF INTENTION TO DESIGNATE¹

To: Ontario Heritage Foundation,
77 Bloor Street West,
Toronto, Ontario,
M7A 2R9

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ intends to designate
the property (properties), including lands and buildings,
at the following municipal address(es) as a property
(properties) of architectural and/or historical value or
interest under Part IV of The Ontario Heritage Act, 1974,
S. O. Chapter 122

- (a) Municipal Address
Reasons for Proposed Designation
- (b) Municipal Address
Reasons for Proposed Designation
- (c) etc.

Notice of objection to the proposed designation, together
with a statement of the reasons for the objection and all
relevant facts may be served on the Clerk of the _____
of _____ before the _____ day of _____, 19__.²

Dated at _____
this _____ day of _____, 19__.

(Clerk)

NOTES:

- 1. Or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
- 2. The Act requires that notices of objection must be served on the clerk within thirty days of the first publication of the NOTICE OF INTENTION in a local newspaper. The date before which the notice of objection must be served should be determined from this date.

3. NOTICE TO BE PUBLISHED IN LOCAL NEWSPAPER¹
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE ACT, 1974,
S. O. CHAPTER 122

AND IN THE MATTER OF THE LANDS AND PREMISES AT THE
FOLLOWING MUNICIPAL ADDRESS(ES) IN THE PROVINCE OF
ONTARIO

NOTICE OF INTENTION TO DESIGNATE²

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ intends to designate³ the
property, including lands and buildings, at the
following municipal address(es) as a property
(properties) as a property (properties) of architectural
and/or historical⁴ value or interest under Part IV of
The Ontario Heritage Act, 1974, S. O. Chapter 122.

- (a) Municipal Address
Reasons for the Proposed Designation⁵
- (b) etc.

Any person may, within thirty days of the first
publication of this notice, send by registered mail or
deliver to the Clerk of the _____ of _____
notice of his or her objection to the proposed
designation together with a statement of the reasons
for the objection and all relevant facts. If such a
Notice of Objection is received, the Council of the
Corporation of the _____ of _____ shall
refer the matter to the Conservation Review Board for
a hearing.

DATED at _____
this _____ day of _____, 19__.

(Clerk)

NOTES:

1. This notice must be published once each week for three consecutive weeks in the same local newspaper.
2. Or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
3. Or ... repeal the by-law designating ...
4. It should be specified whether the proposed designation is on architectural or historical grounds or both.
5. Or Reasons for the Proposed Repeal of Designating By-Law.

2. NOTICE TO BE SERVED ON THE ONTARIO HERITAGE FOUNDATION
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE
ACT, 1974, S. O. CHAPTER 122

AND IN THE MATTER OF THE LANDS AND PREMISES
AT THE FOLLOWING MUNICIPAL ADDRESS(ES) IN
THE PROVINCE OF ONTARIO

NOTICE OF INTENTION TO DESIGNATE¹

To: Ontario Heritage Foundation,
77 Bloor Street West,
Toronto, Ontario,
M7A 2R9

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ intends to designate
the property (properties), including lands and buildings,
at the following municipal address(es) as a property
(properties) of architectural and/or historical value or
interest under Part IV of The Ontario Heritage Act, 1974,
S. O. Chapter 122

- (a) Municipal Address
Reasons for Proposed Designation
- (b) Municipal Address
Reasons for Proposed Designation
- (c) etc.

Notice of objection to the proposed designation, together
with a statement of the reasons for the objection and all
relevant facts may be served on the Clerk of the _____
of _____ before the _____ day of _____, 19__.²

Dated at _____
this _____ day of _____, 19__.

(Clerk)

- NOTES:
- 1. Or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
 - 2. The Act requires that notices of objection must be served on the clerk within thirty days of the first publication of the NOTICE OF INTENTION in a local newspaper. The date before which the notice of objection must be served should be determined from this date.

3. NOTICE TO BE PUBLISHED IN LOCAL NEWSPAPER¹
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE ACT, 1974,
S. O. CHAPTER 122

AND IN THE MATTER OF THE LANDS AND PREMISES AT THE
FOLLOWING MUNICIPAL ADDRESS(ES) IN THE PROVINCE OF
ONTARIO

NOTICE OF INTENTION TO DESIGNATE²

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ intends to designate³ the
property, including lands and buildings, at the
following municipal address(es) as a property
(properties) as a property (properties) of architectural
and/or historical⁴ value or interest under Part IV of
The Ontario Heritage Act, 1974, S. O. Chapter 122.

- (a) Municipal Address
Reasons for the Proposed Designation⁵
- (b) etc.

Any person may, within thirty days of the first
publication of this notice, send by registered mail or
deliver to the Clerk of the _____ of _____
notice of his or her objection to the proposed
designation together with a statement of the reasons
for the objection and all relevant facts. If such a
Notice of Objection is received, the Council of the
Corporation of the _____ of _____ shall
refer the matter to the Conservation Review Board for
a hearing.

DATED at _____
this _____ day of _____, 19____.

(Clerk)

NOTES:

1. This notice must be published once each week for three consecutive weeks in the same local newspaper.
2. Or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW
3. Or ... repeal the by-law designating ...
4. It should be specified whether the proposed designation is on architectural or historical grounds or both.
5. Or Reasons for the Proposed Repeal of Designating By-Law.

Appendix B: Sample Newspaper Notice of Passing of By-Law

NEWSPAPER NOTICE - INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE ACT, 1974
S.O. CHAPTER 122

AND IN THE MATTER OF THE LANDS AND PREMISES AT THE
FOLLOWING MUNICIPAL ADDRESS(ES) IN THE _____
OF _____ IN THE PROVINCE OF ONTARIO

NOTICE OF PASSING OF BY-LAW

TAKE NOTICE that the Council of the Corporation
of the _____ of _____
has passed by-law number _____ to designate¹ the
following properties as being of architectural
and/or historical value or interest under Part
IV of The Ontario Heritage Act, 1974, S.O. Chapter
122:

(a) Address of Property
Reason for Proposed Designation²

(b) etc.

DATED at _____ this _____ day
of _____, 19__.

(Clerk)

Notes to Sample Notice:

- 1) Or ...to repeal the by-law designating...
- 2) Or Reason for Proposed Repeal of Designating By-Law

This notice must be published once each week for three consecutive weeks in the same local newspaper.

Appendix C: Sample Notices of Withdrawal of Notice of Intention

1. NOTICE TO BE SERVED ON PROPERTY OWNER

IN THE MATTER OF THE ONTARIO HERITAGE ACT, 1974,
S.O. CHAPTER 122;

AND IN THE MATTER OF THE LANDS AND PREMISES AT
THE FOLLOWING MUNICIPAL ADDRESS(ES) IN THE
_____ OF _____ IN THE
PROVINCE OF ONTARIO.

NOTICE OF WITHDRAWAL OF NOTICE OF
INTENTION TO DESIGNATE¹

To: Name and Address of Property Owner

TAKE NOTICE that the Council of the Corporation of the
_____(City, Town, etc.)____ has withdrawn its Notice of Intention
to Designate²the property, including lands and buildings,
known municipally as _____(Municipal Address)_____ under Part IV
of The Ontario Heritage Act, 1974.

DATED at _____ this _____ day of _____, 19____.

(Clerk)

Notes to Sample Notice:

- 1) Or NOTICE OF WITHDRAWAL OF INTENTION TO REPEAL DESIGNATING BY-LAW
- 2) Or Notice of Intention to Repeal Designating By-Law

2. NOTICE TO BE SERVED ON ONTARIO HERITAGE FOUNDATION
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE ACT,
1974, S.O. CHAPTER 122;

AND IN THE MATTER OF THE LANDS AND PREMISES
AT THE FOLLOWING MUNICIPAL ADDRESS(ES) IN
THE _____ OF _____
IN THE PROVINCE OF ONTARIO.

NOTICE OF WITHDRAWAL OF NOTICE OF
INTENTION TO DESIGNATE¹

To: Ontario Heritage Foundation,
77 Bloor Street West,
Toronto, Ontario,
M7A 2R9

TAKE NOTICE that the Council of the Corporation of the
_____ of _____ has
withdrawn its Notice of Intention to Designate² the
property (properties) at the following municipal address(es)
in the _____ of _____ under Part
IV of The Ontario Heritage Act, 1974, S.O. Chapter 122:

- (a) Municipal Address
- (b) Municipal Address
- (c) etc.

DATED at _____ this _____ day of _____, 19____.

(Clerk)

Notes:

- 1) Or NOTICE OF WITHDRAWAL OF NOTICE OF INTENTION TO REPEAL
DESIGNATING BY-LAW
- 2) Or Notice of Intention to Repeal the By-Law designating

3. NOTICE TO BE PUBLISHED IN A LOCAL NEWSPAPER
INDIVIDUAL PROPERTY OR GROUP OF PROPERTIES

IN THE MATTER OF THE ONTARIO HERITAGE ACT, 1974,
S.O. CHAPTER 122,

AND IN THE MATTER OF THE LANDS AND PREMISES AT
THE FOLLOWING MUNICIPAL ADDRESS(ES) IN THE
_____ OF _____ IN THE
PROVINCE OF ONTARIO

NOTICE OF WITHDRAWL OF NOTICE OF INTENTION TO
DESIGNATE¹

TAKE NOTICE that the Council of the Corporation
of the _____ of _____
has withdrawn its Notice of Intention to
Designate² the property (properties), including
lands and buildings, at the following municipal
address(es) as a property (properties) of
architectural and/or historical value or interest
under Part IV of The Ontario Heritage Act, 1974,
S.O. Chapter 122:

(a) Municipal Address
(b) Municipal Address
(c) etc.

DATED at _____ this _____ day of
_____, 19____.

(Clerk)

- Notes:
- 1) Or NOTICE OF WITHDRAWL OF NOTICE OF INTENTION TO REPEAL
DESIGNATING BY-LAW
 - 2) Or Notice of Intention to Repeal the By-Law designating

This notice must be published once each week for three consecutive weeks
in the same local newspaper.

Appendix D: Sample Reasons for Designation

1) NOTICE OF INTENTION TO DESIGNATE

Village of Paisley: Paisley Town Hall

The Paisley Town Hall at the Market Square, built in 1876, is recommended for designation for architectural reasons, as it is an early example of rural public design; skillfully using local material and craftsmanship. Historically the building has served as a focal point for activities, and as a civic symbol for 100 years. The Town Hall epitomizes and reflects the nature of the surrounding district.

Town of Amherstburg: Park House Museum

The Park House Museum . . . is an example of the French frame construction and is one of the oldest buildings within 250 miles of Amherstburg. The house, originally built in Detroit and subsequently moved to Amherstburg, has played a significant role in the history of the town.

City of Woodstock: Hugh Richardson House

Hugh Richardson came to Woodstock in 1847 as a young law graduate at the age of 21 and established a successful law practice. Two years later he built this fine brick Classic style residence.

In 1851 he was elected to the first Town Council and was chosen as the first Reeve. He served in the Oxford Militia attaining the rank of Lieutenant-Colonel. During the Fenian Raids he commanded a Company of the Militia at Sarnia and at Laprairie, Quebec.

He left Woodstock in 1876 to become Stipendiary Magistrate and legal adviser to the governor of the North-West Territories, with headquarters at Battleford. Four years later he was transferred to Regina when that city became the seat of Government. It was there, in 1885, as presiding Judge, that he tried and passed sentence on Louis Riel. Later he was appointed Deputy Minister of Justice.

This is one of the best preserved homes in Woodstock and in addition to its historical value it is architecturally significant for its Neo-Classical style so popular in the mid-nineteenth century.

City of Kingston: Depot School

From the time the Grand Trunk Railway came to Kingston in 1854, the inhabitants of the Kingston station area petitioned the Kingston Public School Board for a school and one was finally opened in an empty freight shed in 1864 with fifty students and one teacher. Conditions were not ideal and repeated requests resulted in this small school being erected in 1872-73.

This Vernacular styled building has the traditional Georgian plan facade, adapted to a gable end wall - after the Gothic Revival fashion - with a strong presence of Italianate windows.

2) REASONS TO BE REGISTERED TOGETHER WITH DESIGNATING BY-LAW

Village of Paisley: Paisley Town Hall

The Paisley Town Hall, at the Market Square, built in 1876, is recommended for designation for architectural reasons as it is an excellent example of a rural public building of the late nineteenth century. The classical detailing was skillfully applied by local craftsmen in local materials, giving the building a restrained but dignified air. The local brick, the round arched wooden windows, the wooden belfry and the fan lights are all particularly important in contributing to the Town Hall's exterior appearance. In the interior a decorated curving staircase rises from a centre hall to the auditorium with its excellent curved lath and plaster ceiling and large central wooden medallion. The north end of the basement contains two iron barred cells for prisoners. Historically the building has served as a focal point for political and social activities and as a civic symbol for 100 years. The Town Hall is a prominent structure due to its location at the confluence of the Teeswater and Saugeen Rivers on the north side of the Market Square, and its retention is important for preserving the character of the surrounding district.

Town of Amherstburg: Park House Museum

Historical Significance: In 1972 the Amherstburg Rotary Club purchased the Park House and moved it to its present site on the "King's Navy Yard" which is connected with the earliest settlement of the Town of Amherstburg.

Tradition tells us that the house was built in Detroit about 1796 and was three years later moved to Amherstburg by a loyalist who preferred not to leave his house for the Americans after the signing of the Jay Treaty. The following represents a description of the historical high-lights attached to this unique representation of early life and architecture in the Amherstburg area:

1798 Lot No. 17 on First Street, Amherstburg. Granted in 1798 to the firm of Leith shepherd & Duff by Military Commander at Fort Malden.

1804 Sketch of the Military Post at Amherstburg (1804) shows the house on Lot 17

1813 Margaret Reynolds "Sketch of Amherstburg 1813" shows the house as seen from the river.

1821 Registry Office records a Crown Patent "deed" Lot 17 issued to Alexander MacIntosh.

1823 Property sold to Jean Baptiste Macon, a merchant.

1839 September 25 purchased by Thomas F. Park but occupied by his brother, Theodore J. Park. His son, Theodore James Park, M. D., occupied the house until his death in 1936.

1941 House purchased by C. R. LaLonde and operated for 30 years as the Park House Antique Shop.

1972 The Park House purchased by Amherstburg Rotary Club. In 1973 the Park House was furnished and opened to the public by the Amherstburg Historic Sites Association.

Architectural Significance: This historic house is a very early example of solid log, French frame construction. The original house had three dormers, was sided with clapboard siding and painted white. It had a cedar shake roof (hand split shingles), a fire place and a chimney at each end. The interior of the building was lathed and plastered and was probably used as a combination store and residence for many years. The Park House is estimated to be the oldest house within 250 miles of the Town of Amherstburg.

City of Woodstock: Hugh Richardson House

Hugh Richardson came to Woodstock in 1847 as a young law graduate at the age of 21 and established a successful law practice. Two years later he built this fine brick classic style residence. In 1851 he was elected to the first Town Council and was chosen as the first Reeve. He served in the Oxford Militia attaining the rank of Lieutenant-Colonel. During the Fenian Raids he commanded a company of the militia at Sarnia and at Laprairie, Quebec. He left Woodstock in 1876 to become Stipendiary Magistrate and legal adviser to the Governor of the North - West Territories, with headquarters at Battleford. Four years later he was transferred to Regina when that city became the seat of Government. It was there, in 1885, as presiding judge, that he tried and passed sentence on Louis Riel. Later he was appointed Deputy Minister of Justice. This is one of the best preserved homes in Woodstock, and in addition to its historical value it is architecturally significant for its neo-classical style so popular in the mid-nineteenth century.

City of Kingston: Depot School

Significance: From the time the Grand Trunk Railway came to Kingston (1854) the inhabitants of the Kingston Station area petitioned the Kingston Public School Board for a school. One finally opened in an empty freight shed in 1864 with fifty students and one teacher. Conditions were not ideal and repeated requests resulted in this small school being erected in 1872-73.

The property was obtained from John Fraser and John Duff and the Board requested John Power to submit plans. He did so in the summer of 1872 and construction began under Isaac Newlands, mason. Plans were slightly changed in the spring of 1873 before the upper storey was completed to include an apartment for a caretaker.

Miss Harriet Keys was the first teacher when the school opened in August, 1873, with a salary of \$200 per annum. Then known as Frontenac School, its name was changed to the Depot school after 1896 when the present Frontenac School was built. The City of Kingston obtained the property in 1970 from the

Frontenac County School Board and now operates a day care centre here.

This two - storey, three bay, hammer - dressed stone building with flush quoining has a central six - panelled door whose transom is decorated with an ashlar hood mould with keystone and label - stops.

The transom and all the windows on the facade are round - headed; all the windows in the building appear to have their original sashes.

The north and south walls are both regularly fenestrated with twelve paned double - hung sashes; the central window on the first storey of the north wall is blocked; the west bay of this same wall contains a doorway.

The west wall is covered by a two - storey, shallow, gabled concrete addition.

The roof has its gable end over the facade and there is a brick chimney at the west end.

This vernacular styled building has the traditional Georgian plan facade, adapted to a gable end wall - after the Gothic Revival fashion - with a strong presence of Italianate windows.

Appendix E: Sample Informal Notice of Council's Intention to Designate

Dear (Owner) :

As you may know, the Council of the (City, Town, etc.) of has initiated a programme of heritage conservation in our community. It intends to take measures under the authority of The Ontario Heritage Act, 1974 to protect properties of architectural and/or historical value or interest.

I am writing to tell you that your property at (municipal address) has been selected for such protection. Council intends to pass a by-law under section 29 of The Act to designate this property (including lands and buildings) as being of architectural/ historical value or interest. No action has been taken to date in this matter and I assure you that before any action is taken every effort will be made to inform you of the nature of designation and the procedures involved.

Council has considered your property for designation on the recommendation of the Local Architectural Conservation Advisory Committee, of which I am the Chairman/Chairwoman. This Committee was established to advise and assist Council on all matters relating to its heritage conservation programme under The Ontario Heritage Act, 1974. We have done extensive research on your property and we believe that it should be designated on the basis of its architectural/historical importance. In brief, this is what our studies have revealed:

(Give a comprehensive statement of the reasons for the recommendation to Council to designate. It should be clear from this statement which parts of the property should be protected from alteration or demolition.)

As you can see from this statement, the specific parts of your property which we believe should be protected are:

(A detailed list should be given, including all aspects of the land or buildings that the LACAC feels should not be altered.)

cont'd...

Nature of Designation:

Designation of a property allows Council to control alterations to land and buildings and, to a certain extent, demolition or removal of buildings. If the owner wants to make alterations which are likely to affect the reasons for designation, he or she must apply to Council for permission to do so. Council may grant permission, refuse it, or grant it upon certain terms and conditions. Similarly, the owner must seek the Council's permission to demolish or remove a building on the designated property. Again Council may approve or refuse the application. However, unlike the case of alteration, refusal of an application to demolish or remove is effective for only 180 days from the date of the decision upon the application. If, after this period, the owner still wishes to demolish or remove the building he or she is free to do so. If Council refuses an owner's application to alter or demolish, or if it grants an application to alter on terms and conditions, the owner may apply to Council for a hearing. The Council must, upon receipt of such an application, refer the matter to the Conservation Review Board, a body established by The Ontario Heritage Act, 1974, to conduct hearings on matters relating to The Act. The Board will report its findings and recommendations to Council and all other parties. The Council is not bound by the Board's recommendations, however, and after consideration of the report it is free to confirm or vary its initial decision as it wishes.

Designation does NOT impose any obligation on an owner to repair or maintain the property. The restrictions involved are of a negative character. There is NO positive obligation to incur expenses in upkeep or restoration.

Designation Procedure:

Should Council decide to proceed with the designation you will be served with a formal Notice of Intention to Designate. If you wish to object to the designation you may, within 30 days of service of the Notice of Intention to Designate, deliver to the Municipal Clerk a Notice of Objection stating the reasons for your objection and all relevant facts. The matter will then be referred to the Conservation Review Board for a hearing, and the Board will send a report, including its findings and recommendations, to Council and to you. Council may then withdraw its Notice of Intention to Designate or proceed to pass a Designating By-Law. In either case you will be notified. If a by-law is passed you may apply to Council for its repeal. Council may

cont'd...

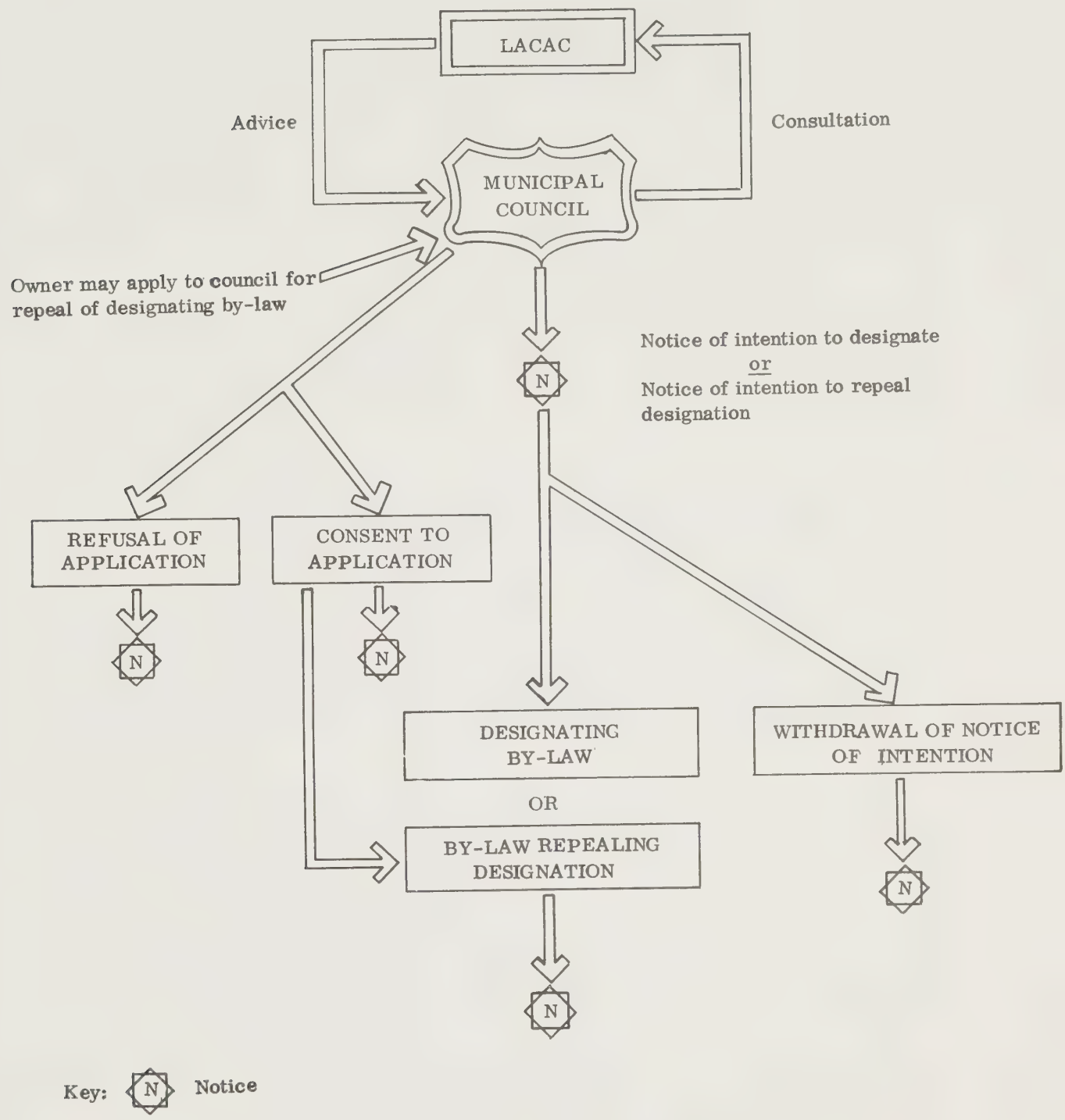
either accept the application or refuse it. If it is refused you may apply to Council for a Conservation Review Board hearing. The matter will be heard by the Board, which will then send a report to you and to Council. Again the final decision rests with Council, after the Conservation Review Board report.

My purpose in writing to you now is to avoid any possible misunderstandings about designation. If you have any questions or would like to discuss this matter further, the Committee would be more than happy to meet with you.

Sincerely,

(LACAC Chairman/Chairwoman)

Chapter 3: Designating By-Law



1. Introduction

Section 29 of The Ontario Heritage Act, 1974 empowers municipal councils to pass by-laws designating properties within the municipality to be of architectural or historical value or interest. Designation introduces important protection for the properties affected. Most municipalities use it as the major tool in their heritage conservation programmes.

This Chapter deals with the scope of the designation power, the procedures that must be followed in passing a DESIGNATING BY-LAW and the circumstances in which the by-law must be repealed. A sample DESIGNATING BY-LAW is included in the Appendix to this Chapter.

The protection of properties afforded by designation is discussed in Chapter 6 (Effects of Designation). Details as to procedures are explained in Chapters 2 (Notice), 4 (Registration), 1 (LACAC: see heading 3) and 5 (Conservation Review Board).

2. Scope of designation power: "Property"

It is important to note that, although the major orientation of Part IV of The Ontario Heritage Act, 1974 is toward conservation of buildings, it is "property" which may be designated under section 29. Section 26 states that, for the purposes of Part IV of The Act, "'property' means real property and includes all buildings and structures thereon." Thus, when a council wishes to protect a building, it must pass a by-law referring to the land on which the building is situated.

A by-law need not be drawn so as to apply to a whole surveyed lot. If a council wants to protect a farm house, for example, it need not include the whole farm in the by-law. An area defined to include only the house is sufficient.

Vacant property that has historical significance may also be designated. Battlefields or cemeteries, for example, could be protected from unsympathetic development in this way.

3. Properties that cannot be designated

FEDERAL PROPERTY

Federally owned property is beyond the legislative jurisdiction of a provincial legislature and so can not be subjected to restrictions under The Ontario Heritage Act, 1974. Thus, such federally owned properties as functioning post offices cannot be designated. Also, works that are not federally owned but have been declared by Parliament to be under federal regulatory jurisdiction (under section 92(10) of The British North America Act) are not subject to The Ontario Heritage Act, 1974. This means, for example, that

railway stations on operating lines cannot be designated.

PROVINCIAL PROPERTY

Provincial properties (such as psychiatric hospitals) cannot be designated (see section 11 of The Interpretation Act, R.S.O. 1970 Chapter 225). However, property owned by some provincial Crown agencies, such as Ontario Hydro, can be designated. The municipal solicitor should be consulted in this regard.

Even though federal and provincial Crown properties and properties owned by some provincial Crown agencies cannot be designated, a municipality that wants to conserve such a property within its bounds should express its concern to authorities of the ministry or agency involved.

4. Procedures preliminary to passage of by-law

The various subsections of section 29 set out a definite procedure which must be followed in designating a property. Passage of the DESIGNATING BY-LAW is the most important step in this process but it is not the only step. It is essential to comply with all of the preliminary procedures required by section 29.

CONSULTATION

If a LACAC has been established (see Chapter 1) it must be consulted before any other action is taken on designation. The council is not obliged to follow the advice of the LACAC but it must be consulted.

NOTICE

After consultation with the LACAC the council must, if it wishes to proceed with the designation, cause NOTICE OF INTENTION TO DESIGNATE to be served on the property owner and the Ontario Heritage Foundation and published once a week for three consecutive weeks in the same local newspaper. The notice must contain an adequate description of the property so that it may be readily ascertained (in most cases this will be a street address), a statement of the reasons for the designation and a statement that notice of objections to the proposed designation may be served by anyone on the Clerk of the municipality within thirty days of the first newspaper publication. For details of this notice, see Chapter 2 of this Handbook.

CONSERVATION REVIEW BOARD

If anyone objects to the proposed designation, the council must refer the matter to the Conservation Review Board for a hearing. For details as to the referral and hearing procedures see Chapter 5. The Board will report to the council its findings of fact from the hearing, its recommendations as to whether the property should be designated and any information or knowledge used by it in making its recommendations. All parties to the hearing receive copies of the Board's report. The council is NOT bound by the Board's recommendations but, again, it is essential that the matter be referred to the Board if any objection is registered.

If no notice of objection is served, the council may proceed with the designation without a Conservation Review Board hearing.

After all of these procedural requirements have been met, the council may proceed to pass the DESIGNATING BY-LAW.

5. Procedures subsequent to passage of by-law

NOTIFICATION

After the DESIGNATING BY-LAW has been passed, a copy of the by-law together with the reasons for designation must be served on the owner and the Ontario Heritage Foundation see ss. 29(6) and (14) .

REGISTRATION

A copy of the by-law must be registered together with the reasons for designation in the proper land registry office ss. 29(6) and (14) .

Also, the designation must be entered in the local Register of Designated Properties. This entry must include a legal description of the designated property, the name and address of the owner and a short statement of the reason for designation of the property (section 27).

6. Amendment

If permission to alter a building which forms part of a designated property is granted by the council (under section 33), the reasons for the designation should be altered to correspond to the altered property. If the reasons are not part of the DESIGNATING BY-LAW (The Ontario Heritage Act, 1974 does not require them to be), they may be altered by resolution (probably the same resolution by which alteration permission is given, if indeed the council decides to give permission in this way rather than by by-law: see Chapter 6: Effects of Designation). This amendment may be carried out by the Clerk, under the authority of the council. If, however, the reasons are made part of the by-law (as they are in many municipalities, where the reasons are included as schedules to the by-law) then a by-law is necessary to amend them, since a by-law cannot be amended by resolution.

The wording of the amendment should be drafted by or in consultation with the LACAC.

7. Repeal of the Designating By-Law

Under section 31 the council may repeal the DESIGNATING BY-LAW, thus freeing the property from alteration and demolition restrictions. The procedures that must be followed in doing so are the same as those for designation. If there is a LACAC it must be consulted s. 31(2) . NOTICE OF

INTENTION TO REPEAL DESIGNATING BY-LAW must be given s. 31(3) . There must be a Conservation Review Board hearing if an objection to the repeal of the by-law is filed s. 31(6) . After the by-law is passed, notification must be given and the by-law registered ss. 31(6), 29(6) and 29(14) . Also, reference to the property must be deleted from the municipal Register of Designated Properties.

If the council decides not to proceed with the repeal of the by-law after it has given NOTICE OF INTENTION, it must give notification of this decision ss. 31(6), 29(6) and 29(14) .

An owner of a designated property may apply to the municipal council under section 32 to have the designation repealed. After consultation with the LACAC (if there is one), the council must consider the application and, within ninety days of its receipt, refuse the application and notify the owner and the Ontario Heritage Foundation, or repeal the by-law, with appropriate notification and registration. There is no need to give notice of the council's intention to repeal the designation. The ninety day period for a decision by the council may be extended by agreement between the owner and the council. Where the application is refused by the council the owner can have the matter sent to the Conservation Review Board for a hearing. The Board will report to the council and to the other parties in such a case, and then the council must reach a final decision. The council is not required to follow the Board's recommendations.

Under section 34, an owner of a designated property may apply to demolish a building on the property. If the council consents, it must then repeal the DESIGNATING BY-LAW. If it refuses, demolition cannot proceed until 180 days from the date of the council's decision. If, after this 180 day period, the owner demolishes the building, the DESIGNATING BY-LAW must be repealed.

Appendix: Sample Designating By-Law

CORPORATION OF THE (City, Town, etc.)
of _____

BY-LAW NUMBER _____

A BY-LAW TO DESIGNATE THE PROPERTY KNOWN
MUNICIPALLY AS (Municipal Address)
AS BEING OF ARCHITECTURAL AND/OR HISTORICAL¹
VALUE OR INTEREST

WHEREAS section 29 of The Ontario Heritage Act, 1974 authorizes the Council of a municipality to enact by-laws to designate real property, including all buildings and structures thereon, to be of architectural or historic value or interest; and

WHEREAS the Council of the Corporation of the _____ of _____ has caused to be served on the owners of the lands and premises known as _____² at (municipal address) _____ and upon the Ontario Heritage Foundation, notice of intention to so designate the aforesaid real property and has caused such notice of intention to be published in the same newspaper having general circulation³ in the municipality once for each of three consecutive weeks; and

cont'd...

NOTES:

1. The by-law should specify whether the property is being designated on architectural or historical grounds or both.
2. This will not apply if the property does not have a name by which it is commonly known. In such a case the phrase "known as _____" should be left out.
3. Reasons for Designation: Most by-laws passed during the first two years of operation of The Ontario Heritage Act, 1974 included the reasons for designation in the by-law as a schedule. If a municipality wishes to do so a recital should be inserted in the by-law at this point, reading as follows: "Whereas the reasons for designation are set out in Schedule B hereto." However, this is NOT required by The Ontario Heritage Act, 1974 (subsection 29(6) requires the by-law "together with the reasons for designation" to be registered). In fact, including the reasons in the by-law may cause inconvenience. For example, if, subsequent to designation, permission to alter the property is given under section 33, the reasons for designation should be altered to conform to the altered property. If the reasons are included as schedules, thus being part of the by-law, they will have to be amended by another by-law, since a by-law cannot be amended by resolution. If the reasons do not form part of the by-law, they could be amended by the Clerk under the authority of a resolution (presumably the same resolution that authorized the alteration of the property).

WHEREAS no notice of objection to the proposed designation has been served on the clerk of the municipality;

OR

WHEREAS the Conservation Review Board has held a hearing to determine whether the property in question should be designated and reported its findings of fact and recommendations to the Council, and

Whereas the Council has considered the report of the Conservation Review Board;

THEREFORE the Council of the Corporation of the _____ of _____ enacts as follows:

- 1) There is designated as being of architectural and/or historical⁴ value or interest the real property known as (Name of property or building) at (municipal address), more particularly described in schedule A hereto.
- 2) The municipal solicitor is hereby authorized to cause a copy of this by-law to be registered against the property described in Schedule A hereto in the proper land registry office.
- 3) The Clerk is hereby authorizes to cause a copy of this by-law to be served on the owner of the aforesaid property and on the Ontario Heritage Foundation and to cause notice of the passing of this by-law to be published in the same newspaper having general circulation in the municipality once for each of three consecutive weeks.

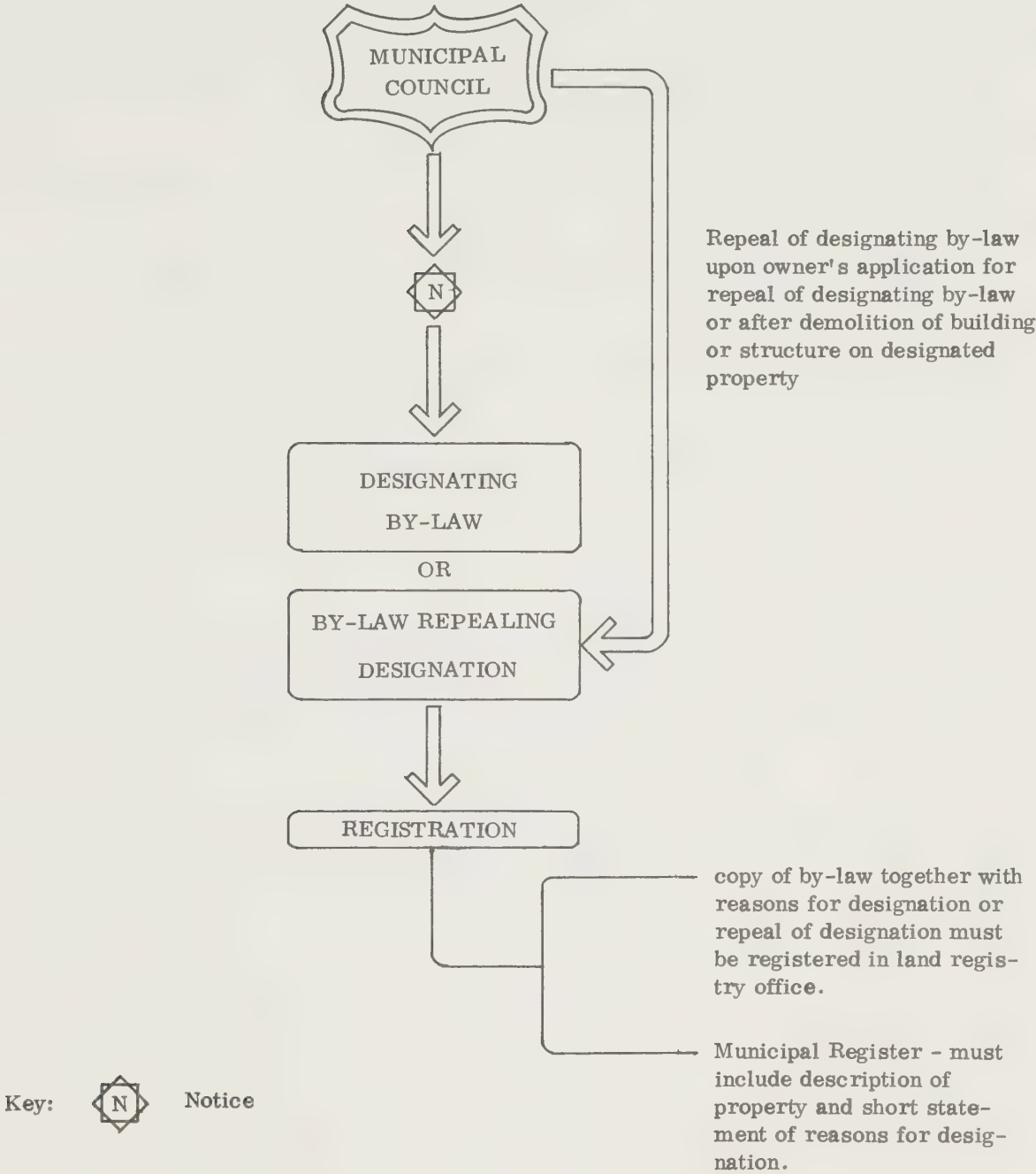
Dates of three readings:

(Signature of head of Council)

(Signature of Clerk)

4. It should be specified whether the property is being designated on architectural or historical grounds or both.

Chapter 4: Registration



1. Municipal Register

Section 27 of The Ontario Heritage Act, 1974 requires that if any properties within a municipality have been designated under Part IV of The Act the clerk of that municipality must keep a Register of Designated Properties. The Register must contain the following information for each designated property:

- (a) a legal description of the designated property,
- (b) the name and address of the owner, and
- (c) a short statement of the reason for the designation of the property.

Under subsection 27(2) the clerk must issue extracts from the Register to any person on payment of the fee prescribed by the regulations.

If a DESIGNATING BY-LAW is repealed, the clerk must delete the reference to the property from the Register [ss. 31(7), 32(11)(b)(ii) and 34(5)(e)].

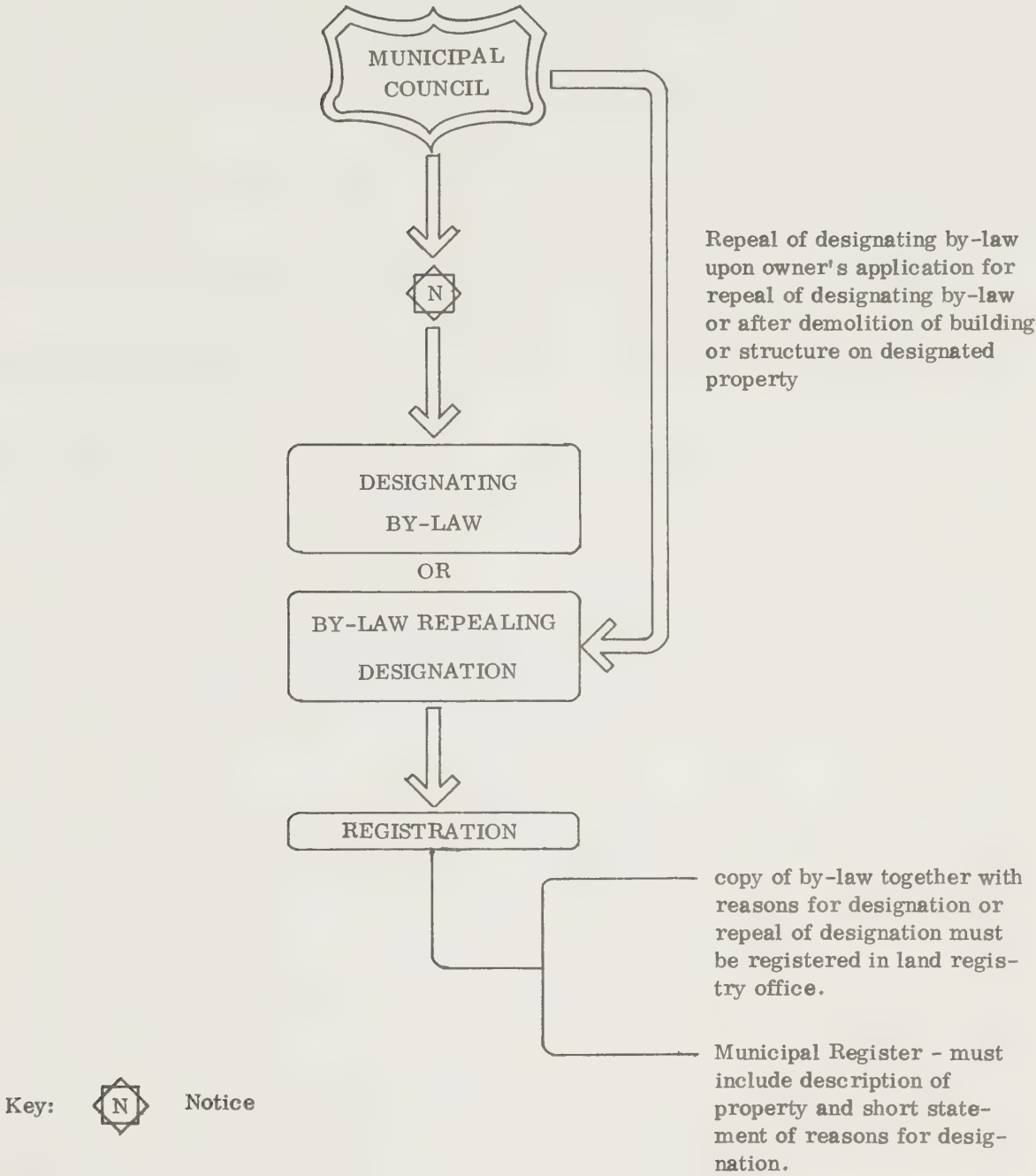
A sample Municipal Register page is included in the Appendix to this Chapter.

2. Land Registry Office

Under sub-paragraphs 29(6)(a)(i) and 29(14)(a)(i), after a DESIGNATING BY-LAW has been passed, a copy of it "together with the reasons for designation" must be registered against the property affected in the proper land registry office.

When a BY-LAW REPEALING DESIGNATING BY-LAW is passed, it too must be registered against the property affected in the proper land registry office [ss. 31(6), 32(2)(iv) and 34(5)(f)].

Chapter 4: Registration



1. Municipal Register

Section 27 of The Ontario Heritage Act, 1974 requires that if any properties within a municipality have been designated under Part IV of The Act the clerk of that municipality must keep a Register of Designated Properties. The Register must contain the following information for each designated property:

- (a) a legal description of the designated property,
- (b) the name and address of the owner, and
- (c) a short statement of the reason for the designation of the property.

Under subsection 27(2) the clerk must issue extracts from the Register to any person on payment of the fee prescribed by the regulations.

If a DESIGNATING BY-LAW is repealed, the clerk must delete the reference to the property from the Register [ss. 31(7), 32(11)(b)(ii) and 34(5)(e)].

A sample Municipal Register page is included in the Appendix to this Chapter.

2. Land Registry Office

Under sub-paragraphs 29(6)(a)(i) and 29(14)(a)(i), after a DESIGNATING BY-LAW has been passed, a copy of it "together with the reasons for designation" must be registered against the property affected in the proper land registry office.

When a BY-LAW REPEALING DESIGNATING BY-LAW is passed, it too must be registered against the property affected in the proper land registry office [ss. 31(6), 32(2)(iv) and 34(5)(f)].

RECORD OF DESIGNATION

Name of Municipality: _____

Municipal Address of Property: _____

Owner of Property: _____

Address of Owner: _____

Date of service of Notice
of Intention to Designate: _____

Dates of publication of
Notice of Intention: 1) _____
2) _____
3) _____

Date of Designating By-Law: _____

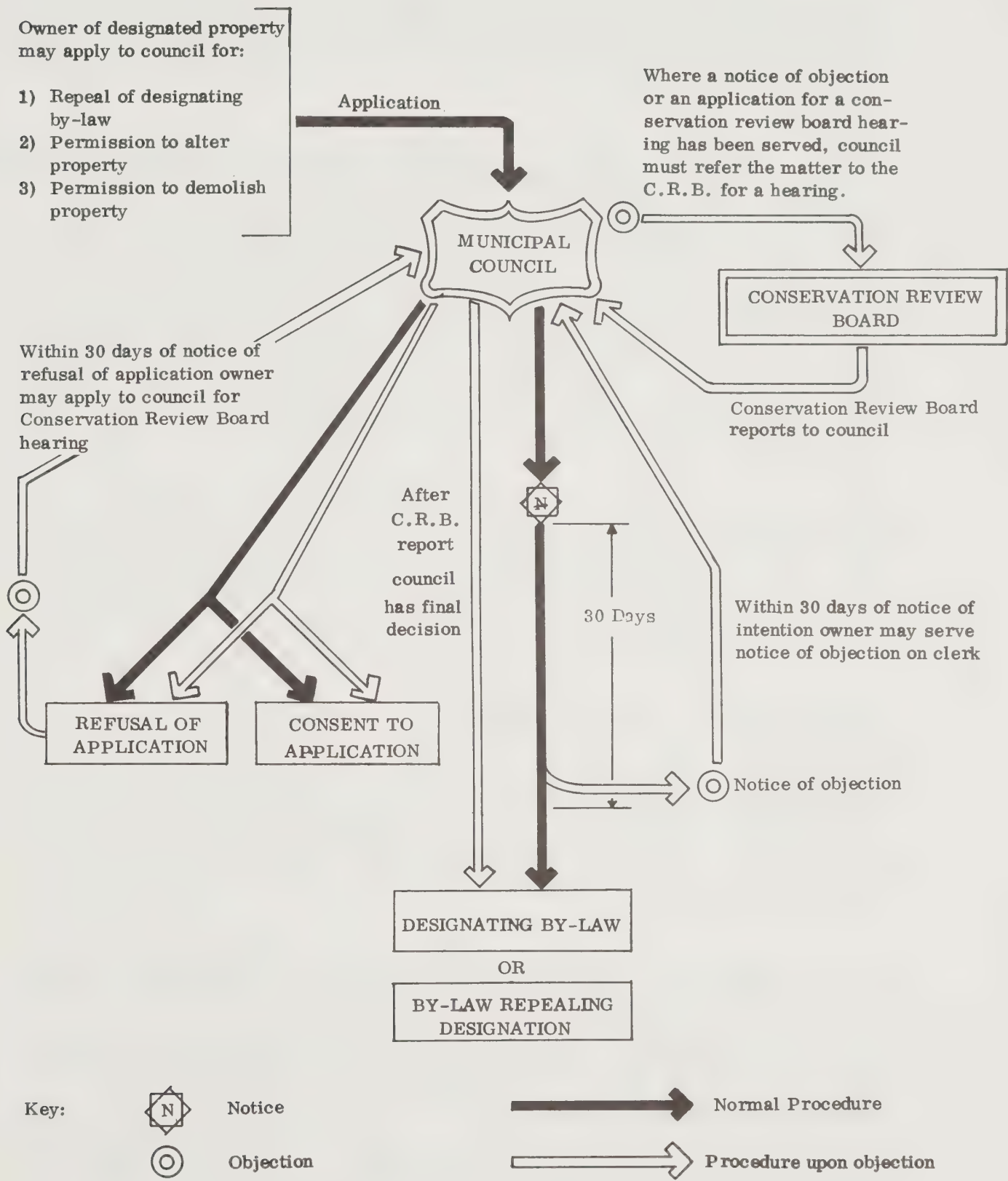
Reason for Designation:

Property Description:

(Lot and Plan or Metes and Bounds)

Date: _____

Chapter 5: Conservation Review Board



1. Introduction

The Conservation Review Board is established by section 24 of The Ontario Heritage Act, 1974. Its function is to hold hearings and make recommendations to municipal councils regarding the advisability of various actions or proposed actions of councils under The Act.

2. When is a Conservation Review Board hearing required?

PROPOSED DESIGNATION OR REPEAL OF DESIGNATION

Any person who opposes a proposed designation of a property or repeal of designation may, within thirty days of the first publication of the NOTICE OF INTENTION TO DESIGNATE or NOTICE OF INTENTION TO REPEAL DESIGNATION in a local newspaper, in a local newspaper, serve a notice of objection on the clerk. This notice must contain the reason for the objection and all relevant facts. When such an objection is served the council must, at the end of the thirty day period, refer the matter to the Conservation Review Board.

OWNER'S APPLICATION FOR REPEAL OF DESIGNATING BY-LAW

Where an owner's application for the repeal of a DESIGNATING BY-LAW is refused the owner may, within thirty days of receipt of notice of the council's decision, apply to the council for a Conservation Review Board hearing. Upon receipt of such an application the council must refer the matter to the Board for a hearing.

OWNER'S APPLICATION FOR PERMISSION TO ALTER DESIGNATED PROPERTY

An owner whose application to alter a designated property has been refused by the council or granted upon certain terms and conditions may, within thirty days of receipt of notice of the council's decision on the application, apply to the council for a Conservation Review Board hearing. The council must refer the matter to the Board if such an application is made.

3. Procedure for referral to Conservation Review Board

The Ontario Heritage Act, 1974 and the Rules of Procedure of the Conservation Review Board require the following documents to be filed by the municipality with the Board upon application for a hearing after a notice of objection to designation or repeal of designation:

1. a certified copy of the Resolution of Intention to Designate or Resolution of Intention to Repeal Designation of the municipal council setting out the municipal address of the property and the reasons for designation,
2. an affidavit pursuant to subsection 29(3) of The Ontario Heritage Act, 1974 setting out that the NOTICE OF INTENTION TO DESIGNATE or NOTICE OF INTENTION TO REPEAL DESIGNATING BY-LAW has been served on the

property owner and the Ontario Heritage Foundation.

3. an affidavit pursuant to paragraph 29(3)(b) as affected by subsection 67(3) that the NOTICE OF INTENTION has been published in a newspaper having general circulation in the municipality, and

4. an affidavit pursuant to subsection 29(8) indicating that the members of the municipal council, the owner, any person who has filed an objection and such other persons as the Board may specify have been served with notice of the hearing.

The Board will arrange a time and place for the hearing when it has received all the necessary documents. It will also notify the parties to the hearing of the time and place of the hearing. Board hearings always take place within the municipality in which the affected property is situated.

When a hearing is held following an application by an owner with respect to his application for the repeal of a DESIGNATING BY-LAW or permission to make alterations, The Act requires the council to publish notice of the Conservation Review Board hearing in a local newspaper at least ten days prior to the date of the hearing. However, the Board itself normally undertakes to give this notice. There is no such requirement in The Act where the hearing follows an objection to a designation (under section 29) or repeal of designation (under section 31).

4. The Conservation Review Board hearing

At the hearings, the Board customarily begins by noting the zoning of the property concerned. The Board sees this as being relevant to the danger of the loss of the property.

The Board then hears evidence from expert witnesses concerning the architectural and/or historical merit of the property. It sees its responsibility as being to consider whether the council's action or proposed action was or would be correct on the basis of the architectural and/or historical value or interest of the property.

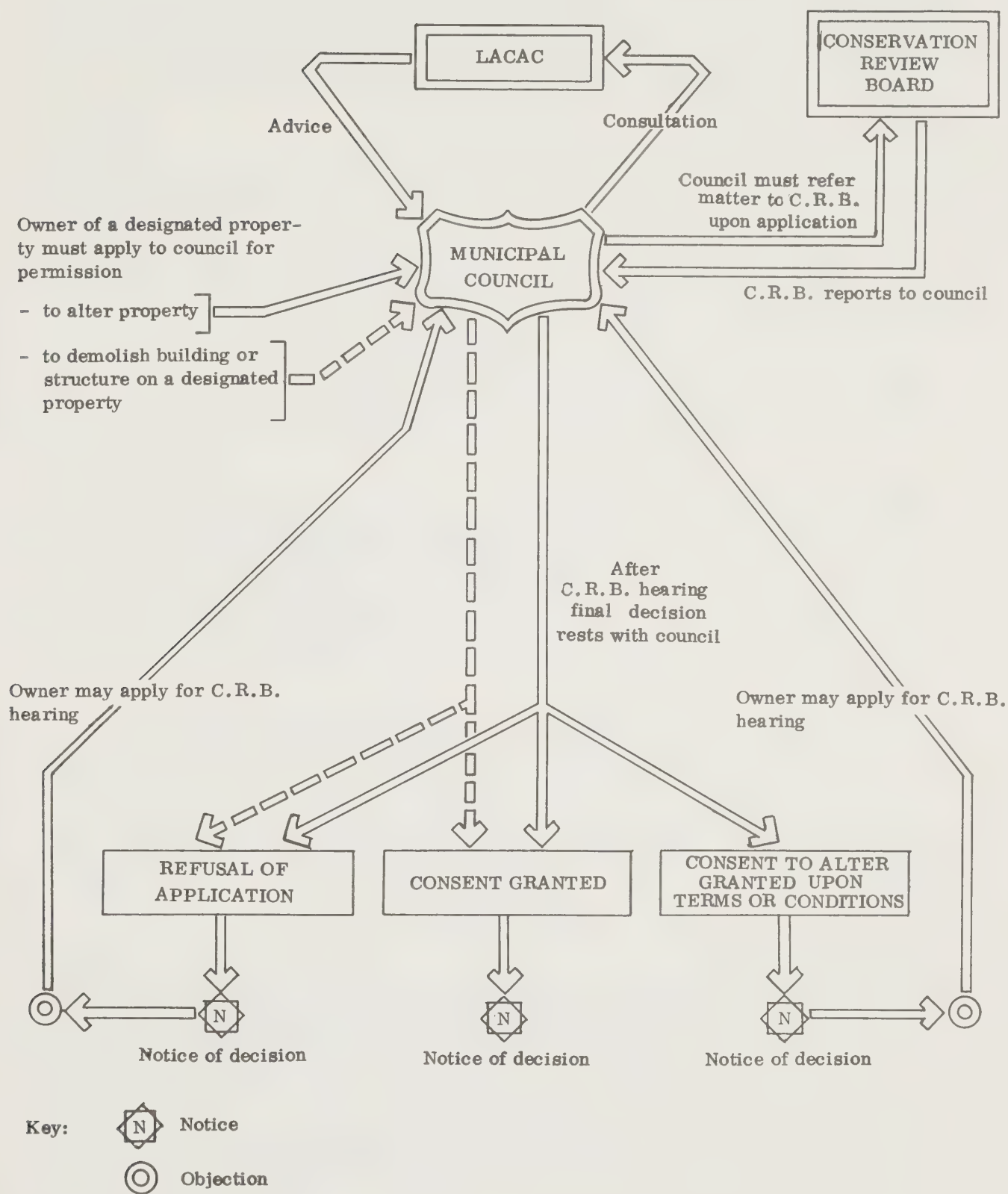
5. Report by Conservation Review Board

After it holds a hearing the Board must make a report to the council setting out its findings of fact, its recommendations and any information used by it in reaching its recommendations. Copies of the report are also sent to all other parties to the hearing.

EFFECT OF THE REPORT

The recommendations of the Board are NOT binding on the municipal council. The council must consider the report, but it is then free to take any action it wishes.

Chapter 6: Effects of Designation



1. Restrictions on alteration

Under section 33 of The Ontario Heritage Act, 1974 the owner of a designated property cannot alter the property so as to affect the reason for designation without the permission of the local council. The steps which must be followed in reaching a decision are set out in section 33. Municipalities will probably find it convenient to co-ordinate their system for consideration of applications for permission to alter with the mechanism for issuance of building permits under The Building Code Act, S. O. 1974 Chapter 74.

APPLICATION

An owner who wants to alter a designated property in a way which is likely to affect the reasons for the designation must apply to the council in writing for permission to do so [s. 33(1)]. The application must be accompanied by a detailed plan and the council may require any other information it wishes to accompany the plan [s. 33(2)].

NOTICE

Upon receipt of a complete application the owner must be served with a notice of receipt [s. 33(3)].

TIME FOR DECISION AND NOTICE

The council must reach a decision and give notice within 90 days of receipt of the application unless it agrees with the owner to extend this period. Such agreements are authorized by subsection 33(5) of The Act. If such an agreement is made the council must give a decision within the extended time period.

CONSULTATION

When the application is complete the council must first consult with its LACAC if one has been established.

DECISION

After consultation with its LACAC, the council must consider the application and make a decision. There are three options open. Council may consent to the application, refuse it or consent upon certain terms and conditions.

MANNER OF DECISION

Section 33 does not specify whether the decision to consent or refuse an application to alter should be made by resolution or by by-law. The municipal solicitor should be consulted regarding the best mode of action.

NOTICE

Notice of the council's decision must be served on the owner and the Ontario Heritage Foundation [s. 33(4)].

CONSERVATION REVIEW BOARD

If the council refuses the application or consents upon terms or conditions,

the owner may, within 30 days after receipt of notice of the decision, apply to the council for a hearing before the Conservation Review Board. The council must then refer the matter to the Board for a hearing and publish notice of the hearing once each week for three consecutive weeks in the same local newspaper. The last notice must appear at least ten days prior to the date of the hearing. Any person may ask the Board to be made a party to the hearing. The Board will report its findings and any information or knowledge used by it in reaching its recommendations and will send a copy of its report to all other parties to the hearing.

DECISION

After consideration of the Board's report, the council must make a final decision. It may confirm its previous decision or revise it. The council must consider the Conservation Review Board report but is not bound by it.

WHERE NOTICE OF INTENTION GIVEN

Under section 30 the restrictions on alteration of a designated property are extended to a property with respect to which a NOTICE OF INTENTION TO DESIGNATE has been given. Any demolition permits or building permits that have been issued are void upon service of the NOTICE OF INTENTION if the alteration or demolition has not been completed.

2. Restrictions on demolition or removal

APPLICATION

Just as in the case of alteration, the owner must apply to the council for permission to demolish or remove a building that forms part of a designated property.

TIME FOR DECISION AND NOTICE

The council must decide on the application and give notice of the decision within 90 days of its receipt or within such further time as may be agreed upon by the owner and the council. Notice of its decision must be given to the owner and the Ontario Heritage Foundation and published in a local newspaper [s. 34(2)].

DECISION

Council may either consent to the application or refuse it. The council's decision is final. Where permission is refused the council may prohibit demolition or removal of the building or structure for a period of 180 days from the date of its decision. Unlike the case of refusal of permission to alter (which remains in effect for as long as the council wishes), demolition or removal can be delayed only for a period of 180 days from the date of its decision (and a maximum of 270 days from the date of receipt of the application for permission to demolish or remove). After the expiry of the period of 180

days, the owner may demolish or remove the building or structure at will [s. 34(4)]. In the period between receipt of the owner's application to demolish or remove and the expiry of the 180 day period after the council's decision, the municipality should negotiate with the owner to preserve the property or take other action such as purchase or expropriation of the property.

There is no provision for a Conservation Review Board hearing after refusal of an application for permission to demolish or remove a designated structure.

NOTICE

Notice of the council's decision must be given to the owner and the Ontario Heritage Foundation and published three times on consecutive weeks in the same local newspaper [s. 34(2)].

REPEAL OF DESIGNATING BY-LAW

Where the council consents to an application for demolition or where the 180 day period after refusal of an application has expired and the building has been demolished, the by-law designating the property must be repealed, with appropriate notification and registration [s. 34(5)].

3. Previously issued permits

Once a NOTICE OF INTENTION TO DESIGNATE has been served on the property owner and has not been withdrawn, the provisions of sections 33 and 34 of The Act (regarding alteration, demolition or removal of designated properties) apply as if the property were designated. Thus, any permit for alteration or demolition issued prior to the service of the NOTICE OF INTENTION is void if the alteration or demolition has not been completed.

4. Offences and penalties

- Under subsection 69(1), every person who does any of the following is guilty of an offence:
- (a) knowingly supplies false information on any application, statement, report or return required under The Act or Regulations thereunder;
 - (b) fails to comply with any order or other requirement made under The Act;
 - (c) contravenes any provision of The Act or Regulations thereunder.

On summary conviction a person is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year or both. The maximum penalty for a corporation is not \$10,000 but \$50,000. No person is liable for prosecution where a designated property has been altered for reasons of public health, safety or the preservation of the property providing that proper notification has been given to the appropriate municipal clerk.

Where alterations have been carried out to a designated property without the

consent of the municipal council, the council may, in addition to any other penalty, may restore the property as closely as possible to its previous condition and recover the costs of such restoration from the owner of the property except where, in the opinion of the council, the property is unsafe or incapable of repair, or where the alteration has been carried out for reasons of public health or the preservation of the property (s. 69).

NO PROSECUTION FOR AN OFFENCE UNDER THE ACT SHALL BE
INSTITUTED EXCEPT WITH THE CONSENT IN WRITING OF THE MINISTER
OF CULTURE AND RECREATION.

Chapter 7: Other Conservation Methods

1. Purchase

Subsection 36(1) of The Ontario Heritage Act, 1974 reads:

36(1) The council of a municipality may pass by-laws providing for acquiring, by purchase, lease or otherwise, any property or part thereof designated under this Part, including any interest therein, for the use or purposes of this Part and for disposing of such property, or any interest therein, by sale, lease or otherwise, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part.

2. Expropriation

Subsection 36(2) states:

36(2) Subject to The Expropriations Act, the council of every municipality may pass by-laws providing for the expropriation of any property designated under this Part and required for the purposes of this Part and may sell, lease or otherwise dispose of the property, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part.

3. Grants and loans

Section 39 reads:

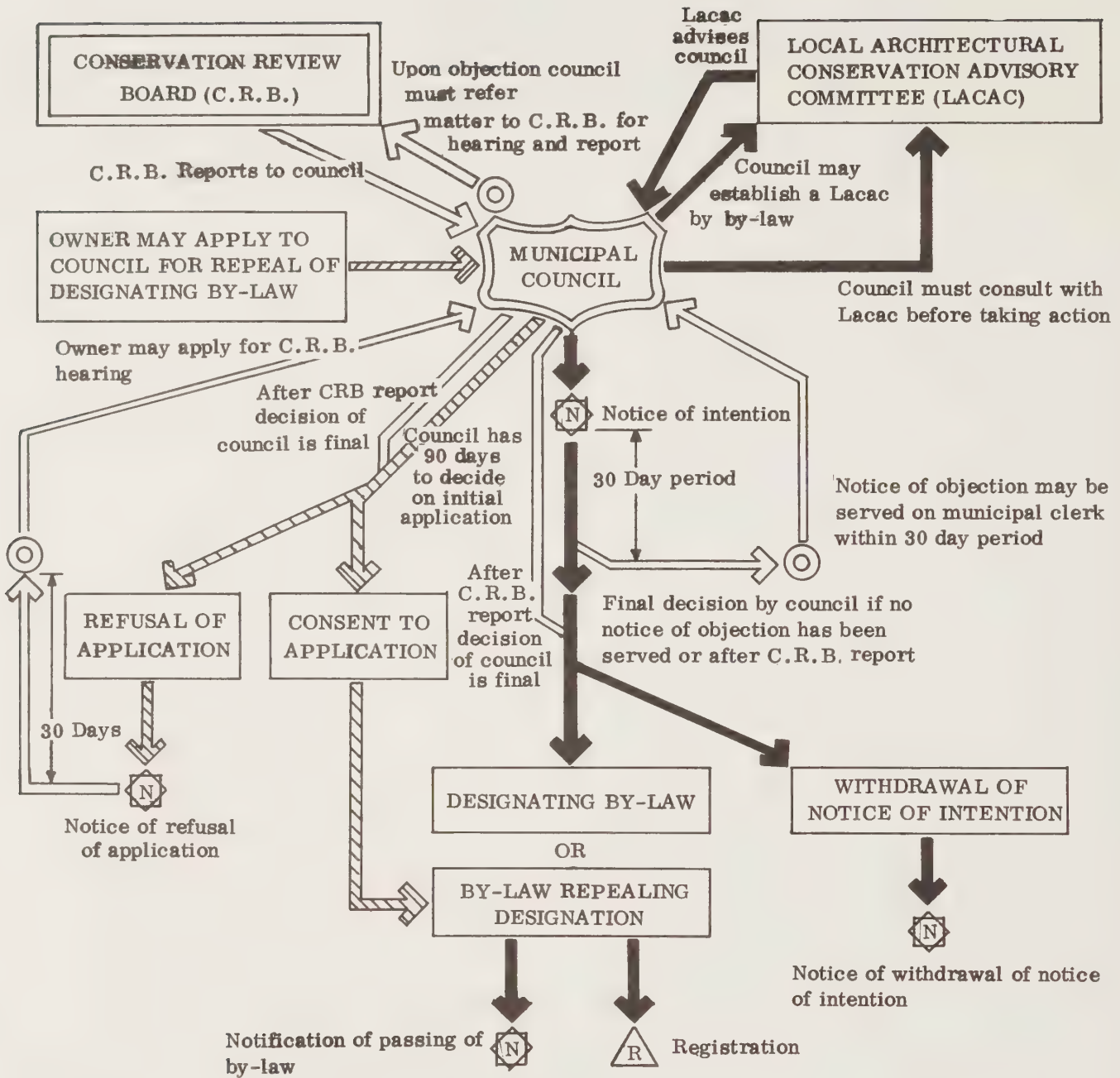
39(1) The council of a municipality may pass by-laws providing for the making of a grant or loan to the owner of a property designated under this Part for the purpose of paying for the whole or any part of the cost of alteration of such designated property on such terms and conditions as the council may prescribe.

(2) The amount of any loan made under a by-law passed under subsection 1, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan was made.

4. Easements and covenants

Under section 37 municipalities may enter into easements or covenants with owners. For information, the Heritage Trust of the Heritage Conservation Division of the Ministry of Culture and Recreation should be contacted at 77 Bloor Street W., Toronto, Ontario, M7A 2R9.

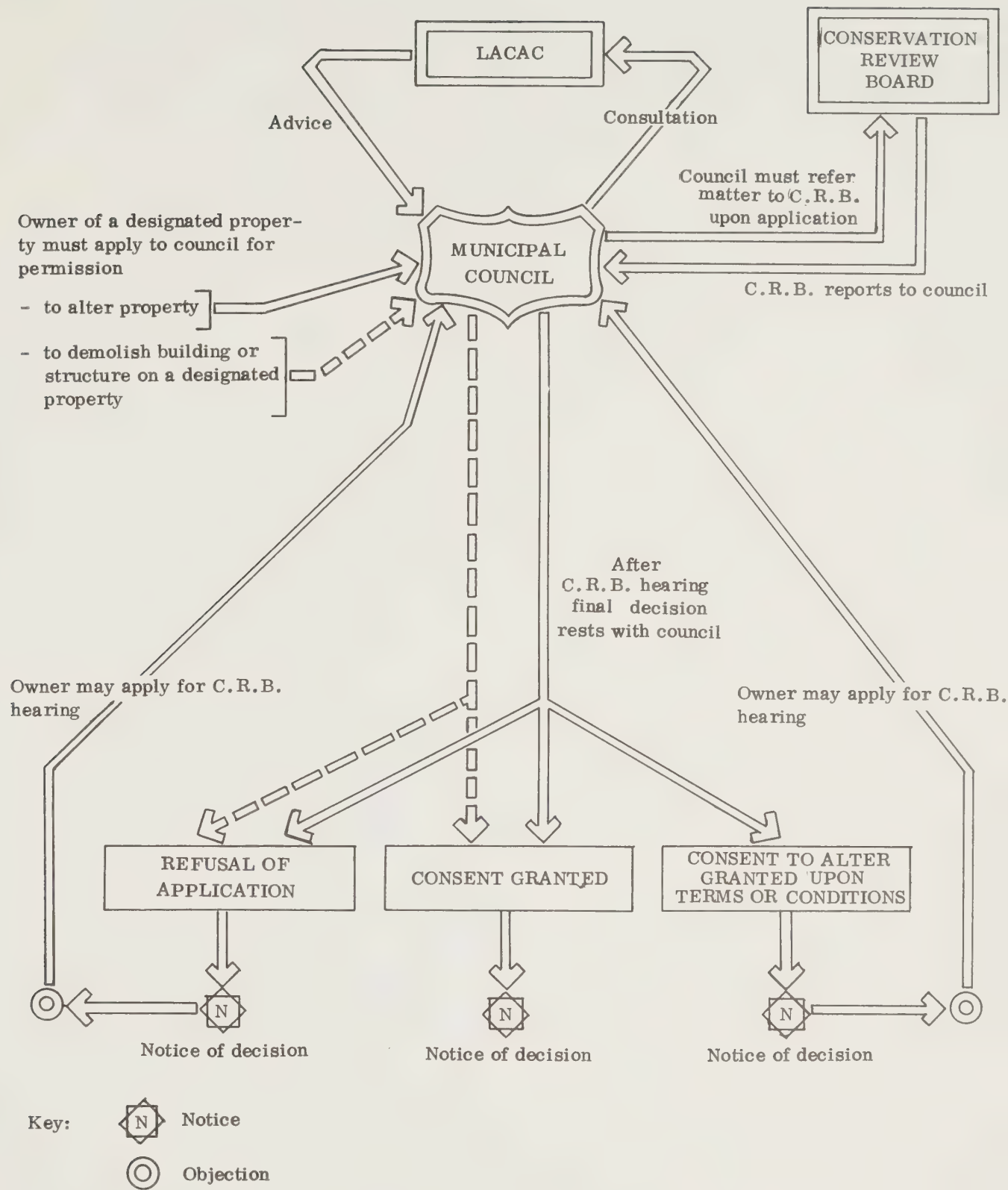
The Designation Process



KEY:



Effects of Designation





Ministry of
Culture and
Recreation

Heritage
Conservation
Division

Hon. Robert Welch
Minister
Robert D. Johnston
Deputy Minister